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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,346

07/25/2003

Donald G. Gordy

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27014

7590

08/03/2006

JOHN R. BENEFIEL

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/627,346	GORDY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael P. Ferguson	3679	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 6 is/are allowed.
- 6) ☒ Claim(s) 1,2,7,10-12 and 21 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/10/06</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 3, 2006 has been entered.

### ***Claim Objections***

2. Claims 1,3 and 21 are objected to because of the following informalities:

Claim 1 (line 2) recites "linkage, arrangement". It should recite --linkage, an arrangement--.

Claim 3 (line 1) recites "The combination arrangement". It should recite --The combination--.

Claim 21 (line 1) recites "The arrangement". It should recite --The combination--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1,2,7 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Automobiles Citroen (FR 2 355 197).

As to claim 1, Automobiles Citroen discloses in combination with an automotive control linkage, an arrangement for connecting one end of an elongated control rod **4,9** to a headed pin **3** included in the automotive control linkage, the arrangement establishing a driving connection between the pin and the control rod, the arrangement comprising:

a housing **6b,7,8b** defining a pin receiving cavity formed therein with retention features **7a,8a** around the cavity adapted to engage a portion of the headed pin so as to be captured and retained therein;

a soft elastomeric isolator **5** fit to the one end of the rod to substantially enclose the one end of the rod;

the housing comprised of two pieces **6b,7,8b** assembled and affixed together, each piece having an isolator engaging portion generally opposing an isolator-engaging portion of the other piece, the portions together compressing the isolator therebetween to create an interference fit between the housing pieces and the isolator, when the two pieces are assembled and fixed together in compressing engagement with the isolator (Figure 3).

As to claim 2, Automobiles Citroen discloses a combination wherein the housing pieces **6b,7,8b** are joined together by snap fit prongs **24** on one housing piece received in respective receptacles **15** on the other housing piece (Figure 3).

As to claim 7, Automobiles Citroen discloses a combination wherein the isolator 5 is formed over the one rod end (Figure 3).

The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production." In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 10, Automobiles Citroen discloses a combination wherein the retention features comprise a prong 7a,8a on each housing piece 7,8b projecting into the pin receiving cavity and being radially detectable to be able to receive the headed portion 2 on the pin 3 and allow passage of the headed portion on the pin past the prongs, and engaging the headed portion of the pin after passage thereof past the prongs (Figure 3).

As to claim 11, Automobiles Citroen discloses a combination wherein the prongs 7a,8a are each formed with an axially extending wall radially spaced from a core portion of each of the housing pieces 7,8b, and also having a lip projecting inwardly from the wall having a sloping under surface engaged by the headed portion 2 of the pin 3 to cause the radial deflection of the associated prong, and a blunt surface on each of the prongs engaging the headed portion after the headed portion has been inserted past the prongs to retain the pin in the cavity (Figure 3).

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As to claim 12, Automobiles Citroen discloses a combination wherein a web **15,24** is formed on each housing piece **6b,7** extending over the pin receiving cavity on one side to prevent insertion of the pin **3** from the one side (Figure 3).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Automobiles Citroen.

As to claim 8, Automobiles Citroen fails to disclose an arrangement wherein the housing pieces are made of a hard plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a combination as disclosed by Automobiles Citroen wherein the housing pieces are made of a hard plastic as such material is a well-known, widely used and commercially available material within the art.

As to claim 21, Automobiles Citroen fails to disclose a combination wherein the isolator has portions subjected to compression of a thickness of about one millimeter.

The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination as disclosed by Automobiles Citroen wherein the isolator has portions subjected to compression of a thickness of about one millimeter because it would be expected that one of ordinary skill in the art would routinely experiment to arrive at the optimum or workable dimensions for a given application.

***Allowable Subject Matter***

7. Claims 3,4 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 5 and 6 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 3, Automobiles Citroen discloses the claimed combination with the exception of wherein the housing pieces are connected together with an integral hinge allowing the housing pieces to be swung together into abutment with each other to assemble the housing, and to be fit over and in engagement with the isolator.

There is no teaching or suggestion, absent the applicants' own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the

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combination as disclosed by Automobiles Citroen to have the above mentioned elemental features.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1,2,7,10-12 and 21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
MPF  
07/19/06



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